

TITLE 10. ELECTRICITY

Chapter 10.01. In General.

10.01.010. Superintendent of Electrical Department.

The mayor, by and with the consent of the Council, shall appoint a superintendent of the electrical department whose duties shall be to manage and direct all business connected with or pertaining to the electrical department.

10.01.020. Name of Electrical System; Property of City; Extensions.

The electric light and power system constructed by the City to supply electric light and power shall be designated and known as the Brigham City electric light and power system. It shall be the property of the City, and the mayor and Council may from time to time authorize the construction of such extensions to the system as may be required.

10.01.030. Injuring or Interfering With Electrical System; Unauthorized Connections.

Any person who shall willfully injure or destroy any part or portion of the electrical system or the extensions thereof or, without authority, connect with the system to use electric energy from the system or who shall in any manner unlawfully interfere with the free workings of the system shall be guilty of a Class B misdemeanor.

10.01.040. Superintendent to Have Access to Premises.

The superintendent of the electrical department or authorized persons under his direction shall have free access at all usual hours to all places supplied with electric current, to examine the apparatus, the amount used, and the manner of using the same or for the purpose of cutting off the current.

10.01.050. Application for Service.

The consumer shall make application to the City for electric service. The consumer shall agree that the electric meter placed on the premises will not be removed or altered and shall be housed by the consumer at a point designated by the City.

10.01.060. Meter Deposit.

Except where a consumer resides on his own property, a meter deposit shall be required. The amount of the deposit shall be determined by resolution adopted by the City Council. Said meter deposit may be changed by resolution from time to time as the requirements of the City demand. Such deposits shall be held as a guarantee of the payment of all charges for the electrical service and shall be applied if required, to the payment of any delinquent account of the consumer. At the election of Brigham City, the deposit may be applied to any accounts ~~30~~ ⁶⁰¹ days past due without notice to the consumer. The meter deposits shall be returned to the consumer at the completion of electrical service to the consumer, provided that the consumer is current in all electrical charges after the electrical service is terminated.

~~The requirement for a deposit may be waived by the City Recorder if the owner of the premises to which service is furnished and the tenant shall sign a written guarantee for the payment of any power accounts that may accrue, substantially as follows:~~

¹Ordinance No. 03-37, dated 9/18/03.

To ~~Brigham City Corporation, Brigham City, Utah,~~

19_____

Street No. of Premises _____

In consideration of the waiver of a requirement of a meter deposit for electrical power service at the above-named premises, we hereby guarantee the payment of all charges for such services against Mr. _____ tenant, or any other tenant or occupant of said premises, until we notify the department in writing to the contrary.

Tenant

Owners²

10.01.070. Duty of Consumer to Protect Meter.

Each consumer shall provide a place for the housing of the electric meter on the exterior of the structure to protect it from damage, and shall use all reasonable care to protect the meter from destruction from any source whatsoever.

10.01.080. Rates, Charges and Discounts.

The Council may, by resolution from time to time, change, alter, amend, fix or classify any and all rates, charges and discounts for the use of electrical energy from the electrical power system to consumers of different classifications. Such rates, charges and discounts so fixed and determined shall be filed with the City Recorder and City Treasurer and when so filed shall be the existing rates, charges and discounts for all electrical service until further amended. The resolution fixing the same shall be made available to the public by the City Recorder or the City Treasurer at all times.

10.01.085. Restitution of Payment.

In the event that electrical services at a structure are found to have been incorrectly billed, restitution of payment to the customer or to the Brigham City Electrical Department, shall only be made on the most current thirty-six (36) month billing period. No claim shall be filed or suits shall be instituted for improper billing outside this time limit.

10.01.090. Delinquent Utility Bills, Termination Procedures.

The City Council shall by resolution from time to time adopt such written policies and procedures for collection of delinquent utility accounts and for termination of service due to delinquencies, as the Council shall deem necessary and proper. The policies and procedures adopted by the City Council pursuant to Resolution 86-1 shall constitute the official policies and procedures of the City in this regard until such time as the City Council, by resolution, amends or revises said policies and procedures.

10.01.100. Application of Delinquent Consumer for Service.

No new connection or reconnection shall be made for any applicant in the City who is at the time delinquent and indebted to the City for the use of electrical energy.

10.01.110. Using Current From Connection Ahead of Meter.

When a customer is found to be using current ahead of the meter, except by authority of special action by the Council, the service shall be shut off and not reconnected until the service from the point of intake to the meter is put in rigid metal conduit at the expense of the consumer.

10.01.120. Payment of Cost of Electrical Connection.

The following fee schedules shall be adopted for any person desiring an electrical connection within the corporate limits of the City:

² This paragraph deleted with Ordinance No. 03-37, dated 9/18/03.

| | |
|--|-------------------------------|
| Residential overhead connection | \$316.00 ³ |
| Residential underground connection | \$593.00 ¹ |
| Nonresidential connection | 100% of actual costs incurred |
| Subdivision overhead distribution | 100% of actual costs incurred |
| Subdivision underground distribution | 100% of actual costs incurred |
| Lined extensions | 100% of actual costs incurred |
| Temporary construction power | \$ 50.00 |

The City Council may change these rates by resolution from time to time as appears appropriate.

10.01.130. City Not Liable for Damages.

The City shall not be held liable for damage to any electric light or power user, or to his property, by reason of any interruption of electrical supply caused by accident to the works or by plant alterations, additions, repairs or from unavoidable cause.

Chapter 10.02. Electrical Code.

10.02.010. Application of Provisions of Article.

The provisions of this article shall apply to all installations of electrical conductors, fittings, devices, appliances and fixtures, hereinafter called "electrical equipment," within or on public or private buildings and premises with exceptions as provided herein and with the following general exceptions:

A. The provisions of this article shall not apply to installations of electrical equipment in railway cars or to automotive equipment or to equipment in mines.

B. The provisions of this article shall not apply to installations used by electricity supply or communication agencies in the generation, transmission or distribution of electricity or for the operation of signals or the transmission of intelligence and located within or on buildings or premises used exclusively by such an agency or on public thoroughfares used for such purposes by these agencies.

C. The provisions of this article shall apply to electrical equipment used for radio transmission in amateur transmitting stations and shall apply to all electrical equipment used for power supply to radio transmitting equipment, but shall not apply to other electrical equipment used for radio transmission.

D. The provisions of this article shall not apply to the installations or equipment employed by a railway utility in the exercise of its functions as a utility and located outdoors or in buildings used exclusively for that purpose.

E. The provisions of this article shall not apply to public utilities operating under the regulations of the public utilities commission or construction, repair and maintenance work incidental to their own businesses.

F. The provisions of this article shall not apply to industrial concerns nor their employees for electrical work performed on the premises of such industrial concerns where such industrial concerns either employ an electrical engineer licensed as such by the state or obtain an electrical contractor's license under the provisions of this article.

10.02.020. Electrical Inspector - Enforcement of Article; Assistants.

The Department of Inspections is hereby declared to be the electrical inspector.

The Department of Inspections is hereby authorized and directed to enforce all of the provisions of this article and is authorized and directed to employ such assistants as may, in his opinion, be necessary to carry out such enforcement.

10.02.030. Same - Powers and Duties Generally.

The electrical inspector, or his duly appointed assistants, upon presentation of proper credentials, shall have the right during reasonable hours to enter any building premises in the discharge of his official duties, or for the purpose of making any inspection, reinspection or test of electrical equipment contained therein or its installation in accordance with the provisions of this article. Where any electrical equipment is found by the electrical inspector to be dangerous to persons or property because it is defective or is defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall be required to place such equipment in safe condition. If such work is not completed within fifteen days or any longer

³ Resolution 97-10, effective 7/1/97

period that may be specified by the electrical inspector in such notice, the electrical inspector shall have the authority to disconnect or order the disconnection of electrical service to such electrical equipment. In cases of emergency, where in his judgment it is necessary for the safety of persons and property, or where electrical equipment may interfere with the work of the fire department, the electrical inspector shall have the authority to immediately disconnect or cause disconnection of any electrical equipment. The electrical inspector may delegate any of his authority to any of his assistants.

10.02.040. Same - Permits; Inspections; Records.

The electrical inspector shall, upon application, issue permits for the installation or alteration of electrical equipment and shall make inspections of electrical installations and equipment as provided in this article. Complete records shall be maintained of all permits issued, all inspections made and of all other official work or actions in connection with the provisions of this article.

10.02.050. Adoption of Electrical Code.

A. The "National Electrical Code," 1990 Edition, as adopted by the National Fire Protection Association and the American Standards Association and printed as a code in book form and as it may be subsequently amended or revised, three copies of which have been filed for use and examination by the public in the office of the City Recorder, is hereby approved and adopted as the Electrical Code of this municipality.

Any amendments, modifications, supplements or later editions of said code replacing said code shall constitute the code then in effect under this chapter. Provided, however, that before any later editions shall take effect, the City Council by resolution, shall certify that the later editions are available and three copies of all amendments, modifications, supplements or later editions shall be filed for examination and use by the public in the office of the City Recorder of Brigham City.

B. Provided further, that the following additional requirements shall be considered a part of the Brigham City Electrical Code:

1. All overhead service entrances shall have a minimum 2" rigid metal conduit mast terminating above the roof with an approved weather cap. The mast height shall be designed to accommodate minimum NEC service drop clearances.
2. Accessory buildings within 50' of a service pole may and 1½" rigid metal conduit.
3. Underground service entrances shall have a minimum 2" rigid metal raceway from the meter base to a minimum depth of 18" below grade. The lower end of the raceway shall have a 90 degree sweep to accommodate horizontal attachment.
4. The neutral or ground conductor shall be continuous from the weather cap to the main disconnect.
5. Service entrance conductors shall protrude a minimum of 18" beyond the weather cap.
6. All service entrance conduit shall have lock nuts and bushings on the fittings.
7. Water grounding and ground rod connection shall terminate at the main disconnect.
8. Concrete thrust blocks shall be provided for all underground electrical conduit terminating at equipment (meter bases, switches, etc.) attached to buildings or structures. This requirement is to prevent damage to the electrical service and facility due to ground settlement and sinkage. Said thrust blocks shall be at least 24" wide and shall extend at least 18" away from the foundation and have a depth of at least 12". Additionally, the thrust blocks must have rebar which is doweled into the existing foundation a minimum of 2".

Electrical conduit shall lay on the top center portion of the thrust block. Any conduit larger than 3" in diameter shall require the review and approval of Brigham City Light and Power prior to installation.

10.02.060. Standards for Electrical Equipment Installed in City.

All electrical equipment installed or used shall be reasonably safe to persons and property and in conformity with the applicable statutes of the state and with ordinances, rules and regulations issued by the City.

Conformity of electrical equipment with applicable standards of Underwriters' Laboratories, Inc., or other recognized standardization testing laboratories acceptable to the electrical inspector, shall be prima facie evidence that such equipment is reasonably safe to persons and property.

This section shall not apply to equipment owned and used by an electricity supply or communication agency in the generation, transmission or distribution of electricity or for the operation of signals or the transmission of intelligence.

0.02.070. Supervision of Work by Licensed Electrical Contractor; Permit Required; Exceptions.

In accordance with the provisions of this article, no electrical wiring or electrical equipment shall be installed within or on any building, structure or premises publicly or privately owned nor shall any alteration or addition be made to any existing wiring system unless such work is done under the supervision of the holder of an electrical contractor's license issued by the state and unless a permit to perform such work is first applied for and obtained from the City, except as specifically exempted in other parts of this article and except that no license or permit shall be required to execute any of the classes of electrical work specified in the following paragraphs (a) to (d) inclusive:

A. Minor repair work, the replacement of lamps or fuses or the connection of portable electrical equipment to suitable permanently installed receptacles or to electrical systems or equipment operating at fifty volt amperes at fifty volts;

B. The installation, alteration or repair of electrical equipment for the operation of signals or the transmission of intelligence;

C. The installation, alteration or repair of electrical equipment intended by or for an electricity supply or communication agency for the use of such agency in the generation, transmission, distribution or metering of electricity;

D. Any work involved in the manufacturing, testing, servicing, altering or repairing of electrical equipment or apparatus, except that this exemption shall not include any permanent wiring other than that required for testing purposes.

10.02.080. Permit Required; Permit Fees; Calls for Inspection.

It shall be unlawful for any person to do any construction work upon any building without first having obtained a permit so to do from the superintendent of the Inspection Department or his authorized agent. Such permit shall be issued upon application and upon the payment of fees per the Uniform Administrative Code Provision.

After a permit is issued, the permittee shall call for an inspection by the superintendent of the Inspection Department, or his authorized agent, after the electrical work is roughed in and shall call for other inspections when the work is completed.

Any person failing to call for an inspection as herein provided for shall have his license revoked upon notice and hearing.

10.02.090. Authority of Superintendent As to Wiring.

In order to safeguard life and property, the electrical inspector shall have the authority to require that certain wiring methods, such as enclosed wiring system, shall be installed and that certain wiring methods, such as open wiring or other methods of wiring shall not be permitted in that location. When, in the opinion of the electrical inspector or his authorized agent, such special rules and regulations are necessary he shall notify each holder of a valid license covering electrical work of such rules and regulations.

10.02.100. Special Permission for Variance From Requirements of Article.

The electrical inspector or his authorized agent shall have the authority to authorize the use of any wiring method or the installation of any electrical equipment or material by special permission when corrosive or moisture conditions or structural details make the use of wiring methods, equipment or materials specified in this article impractical. Such special permission shall be for the specific case only and shall not establish any precedent for future installations.

10.02.110. Connection to Installation Without Certificate.

It shall be unlawful for any person to make connection from a supply of electricity or to supply electricity to any electrical equipment or wiring for which an installation permit is required, or which has been disconnected or ordered to be disconnected by the electrical inspector, or his authorized agent, until a certificate of approval has been issued by the electrical inspector or his authorized agent, authorizing the connection and use of such equipment or wiring.

10.02.120. Liability for Damages.

Nothing in this article shall be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling or installing any electrical wiring or equipment for damage to persons or property caused by any defect therein, nor shall the City be held as assuming any such liability by reason of the inspection or the examination authorized herein or the certificate of approval or the license and

certificate therefor issued as herein provided or by reason of the approval of any equipment or wiring authorized herein.

Chapter 10.03. Municipal Energy Sales and Use Tax.

10.03.010. Purpose.

It is the intent of Brigham City to repeal all franchise fees currently being levied upon energy suppliers and adopt the Municipal Energy Sales and Use Tax pursuant to and in conformance with Utah Code Annotated §10-1-301 et seq., "The Municipal Energy Sales and Use Tax Act."

10.03.020. Definitions.

Consumer. A person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.

Contractual Franchise Fee.

- A. A fee;
 - 1. provided for in a franchise agreement; and
 - 2. that is consideration for the franchise agreement; or
- B.
 - 1. a fee similar to subsection A.; or
 - 2. a combination of subsections A.; or B.

Delivered Value. The fair market value of the taxable energy delivered for sale or use in the municipality and includes:

- A. The value of the energy itself; and
- B. any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.
- C. "Delivered Value" does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.

Energy Supplier. A person supplying taxable energy, except for persons supplying a de minimum account of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

Franchise Agreement. A franchise or an ordinance, contract, or agreement granting a franchise.

Franchise Tax. A franchise tax; a tax similar to a franchise tax; or any combination thereof.

Person. Any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, City, municipality, district, or other local governmental entity of the state, or any group of combination acting as a unit.

Sale. Any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

- A. installment and credit sales;
- B. any closed transaction constituting a sale;
- C. any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

Storage. Any keeping or retention of taxable energy in this City for any purpose except sale in the regular course of business.

Use. The exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy. "Use" does not include the sale, display demonstration, or trial of the taxable energy in the regular course of business and held for resale.

Taxable Energy. Gas and electricity.

0.03.030. Municipal Energy Sales and Use Tax.

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Brigham City equaling two and one-quarter percent (2.25%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

A. The tax shall be calculated on the delivered value of the taxable energy to the consumer.

B. The tax shall be in addition to any sales or use tax on taxable energy imposed by Brigham City and authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

10.03.040. Exemptions from the Municipal Energy Sales and Use Tax.

A. No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Section 10-1-305(2)(b) and Section 10.3.305(2)(c) of the Utah Code; notwithstanding any exemption granted by Section 59-12-104 of the Utah Code.⁴

B. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Section 10-1-305(2)(b) of the Utah Code.²

1. Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code;

2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;

3. Sales and use of taxable energy purchased or stored for resale;

4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;

5. Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the municipality,² except taxable energy purchased for use in the municipality,² by a nonresident living or working in the municipality,² at the time of purchase;

6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and

7. The sale of taxable energy for use outside of the boundaries of municipality.²

C. Any consumer who, as of July 1, 1997, was being supplied electrical energy by a supplier other than the municipality is exempt from the Municipal Energy Sales and Use Tax if:

1. The municipality is a generator of electrical energy for consumers within its borders; and

2. The municipality is unable to generate electrical energy for said consumer.²

D. The sale, storage, use or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Chapter, provided;

1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and

2. Brigham City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under the Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality and the tax that would otherwise be due under the Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality.

10.03.050. Effect Upon Existing Franchises - Credit for Franchise Fees.

A. Except as specifically set forth herein, this Chapter shall not alter any existing franchise agreements between Brigham City and energy suppliers.

B. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. the energy supplier pays the contractual franchise fee to Brigham City pursuant to a franchise agreement effective on July 1, 1997;

2. the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and

3. the energy supplier has accepted the franchise.

C. Section 10 of Brigham City Ordinance #169 ("An Ordinance Granting to Mountain Fuel Supply Company . . . a Franchise for the Construction and Operation of a Gas Distribution System in Brigham City . . ."), dealing with the two percent (2%) franchise fee, is hereby repealed.

⁴ Ordinance No. 98-35, 8/13/98

10.03.060. Tax Collection Contract with State Tax Commission.

A. On or before the effective date of this Chapter, Brigham City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this Chapter. This contract may be a supplement to the existing contract with the Commission to administer and collect any other local sales and use tax. The Mayor, with the approval of the City Council, is hereby authorized to enter all other necessary agreements with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this Chapter.

B. An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to Brigham City monthly if:

1. Brigham City is the energy supplier; or
2. a. the energy supplier estimates that the municipal sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and
- b. the energy supplier collects the Municipal Energy Sales and Use Tax.

C. An energy supplier paying the Municipal Energy Sales and Use Tax directly to Brigham City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by §10-1-307(4), Utah Code Annotated.

10.03.070. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, Including Amendments.

A. 1. Except as herein provided and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax, as well as this Chapter, all of the provisions of Part 1, Chapter 12, Title 59 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of sales and use taxes levied therein, are hereby adopted and made a part of this Chapter, as if fully set forth herein.

2. Wherever, and to the extent that Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the "taxing agency" the name of Brigham City shall be substituted insofar as is necessary for the purposes of that part, as well as Part 3, Chapter 1, Title 10, Utah Code Annotated 1953, as amended. Nothing in this subparagraph (b) shall be deemed to require substitution of the name Brigham City for the word "state" when that word is used as part of the title of the "State Tax Commission," or of the Constitution of Utah, nor shall the name of Brigham City be substituted for that of the "State" when the result of such a substitution would require action to be taken by or against Brigham City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this Chapter.

3. Any amendments made to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to Brigham City for the purposes of carrying out this Chapter, are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute.

10.03.080. No Additional License to Collect the Municipal Energy Sales and Use Tax Required - No Additional License or Reporting Requirements.

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Chapter is required, provided the energy supplier collecting the tax has a license issued under section 59-12-106, Utah Code Annotated.

10.03.090. Effective Date.

This Chapter is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning 12:01 a.m., July 1, 1997.⁵

⁵ Ordinance No. 97-14, 6/26/97